

1 visited --

2 WITNESS: That's correct.

3 JUDGE STEINBERG: -- Blackfoot.

4 WITNESS: But I was generally familiar with the
5 Rocky Mountain area.

6 BY MR. GOLDSTEIN:

7 Q In your testimony in the Blackfoot proceeding, you
8 indicated that you had not yet -- you had not decided on a
9 format for the station. Is that correct?

10 A I'm sorry. Could you say that again?

11 Q Do you recall your testimony in the Blackfoot
12 proceeding?

13 A The 1987?

14 Q Yes, that you did not -- to the extent that you did
15 not decide on a format for the station?

16 JUDGE STEINBERG: Why don't -- look at Mass Media
17 Bureau Exhibit 2 and perhaps -- have you -- that's the
18 transcript of your testimony from -- the date's on the front
19 cover, December 7th, 1987. Have you read that?

20 WITNESS: Yes I have.

21 JUDGE STEINBERG: Preparing for the hearing today?

22 WITNESS: I've refreshed my memory on it. Yes, sir.

23 JUDGE STEINBERG: Okay. Now, Mr. Goldstein, so --
24 so you know you said something in there about -- you were
25 asked questions about the format and you an -- gave certain

1 answers and that's what Mr. Goldstein's referring to.

2 WITNESS: Right.

3 BY MR. GOLDSTEIN:

4 Q Turn your attention to page 90 of Mass Media Bureau
5 Exhibit No. 2. And then also turn your attention to page 56
6 of Mass Media Bureau Exhibit No. 2.

7 MR. RILEY: Your Honor, would you point -- may I
8 point out to the witness that the numbers --

9 MR. GOLDSTEIN: In the lower right-hand corner.

10 MR. RILEY: -- Mr. Goldstein's referring to are the
11 ones handwritten --

12 JUDGE STEINBERG: The handwritten numbers. It's
13 very nice handwriting. Who did it? Did you -- you're to be
14 commended on the clarity of your numbering, Mr. -- I wish
15 everyone numbered as, as well. Let the record reflect humor.

16 BY MR. GOLDSTEIN:

17 Q Do you recall the -- do you recall giving that
18 testimony in the Blackfoot proceeding?

19 A Yes.

20 Q And at the time you had not decided on any format?

21 A That's true.

22 Q What were you contemplating? Did you have any
23 considerations at all about the type of format? Did you
24 consider a format at all?

25 A I wanted to keep the range of format options

1 available to me and I realized that it would be quite some
2 time before the station would eventually go on the air and it
3 would be premature to make a format decision at that time.

4 Q Now, did there come a time that an initial decision
5 was given in the Blackfoot proceeding? Do you recall that?

6 A An initial decision?

7 Q Yes, from the Administrative Law Judge which granted
8 your construction -- awarded you the construction permit?

9 A I know -- I'm, I'm sure it did. I, I don't know
10 exactly when that was? I just know that this has taken a long
11 time and there have been many decisions and appeals along the
12 way.

13 Q Do you recall when your construction permit was
14 given?

15 JUDGE STEINBERG: Was issued.

16 BY MR. GOLDSTEIN:

17 Q Was issued?

18 A I was notified that it became a final order in -- I
19 believe it was February of Mar-- or March of '91. I had not
20 yet received the, the card -- the yellow card yet. That came
21 sometime later in '91. I think December or --

22 Q December. That's correct.

23 A -- something like that.

24 Q Now, once the Court of Appeals decision was, was
25 released, what steps, if any, did you take towards initiating

1 the construction of station -- what ultimately became station
2 KCVI?

3 A Could you -- are you talking about --

4 Q In 1991.

5 A 1991, when I was made aware of that in March of '91?

6 Q Yes.

7 A That's when I began --

8 JUDGE STEINBERG: Let's just do a little foundation
9 here, because I'm, I'm getting confused and I, and I know the
10 dates. Let me just -- are dates going to matter?

11 WITNESS: No.

12 JUDGE STEINBERG: Let me just put on the record some
13 dates so that we're not fishing for them later on. The Bott
14 Blackfoot, Idaho application, according to the file number,
15 was filed July, July 11th, 1985. The HDO in the -- in Docket
16 87-223 was released on July 1st, 1987. All these are subject
17 to check. If I screwed one of these up, you'll let me know.

18 The initial decision of Judge Luton was released
19 December 12th, 1988. The Review Board --

20 MR. GOLDSTEIN: Your Honor, may I just make a suggestion.
21 If you want, we could put these citations in also. Would that
22 help you?

23 JUDGE STEINBERG: I don't care.

24 MR. GOLDSTEIN: Okay.

25 JUDGE STEINBERG: As long as the dates are there and

1 -- I have the citations. I didn't just -- I just didn't take
2 the trouble to write them down. They're -- most of them are
3 in something.

4 MR. GOLDSTEIN: Because I can give them to you if
5 you want them.

6 JUDGE STEINBERG: The Review Board decision was
7 released on June 5th, 1989. The Commission denied review by
8 an order released April 12th, 1990, and the Court of Appeals
9 affirmed the Commission February 22nd, 1991. And that I got
10 from Mr. Alpert's Petition to Deny, so that, that's the only
11 date that I don't -- that I didn't personally look at
12 something and get -- look at the original yet. The
13 construction permit was issued on December 18th, 1991. And,
14 of course, this is all subject to check and that way it's here
15 on the record and you can cite to the dates and the page if
16 neces -- and to whatever page this is on if necessary. So now
17 -- what Mr. Goldstein's pending question was, you know, the
18 Court of Appeals affirmed the Commission in late -- let's say
19 late February 1991, then the question that Mr. Goldstein has
20 pending was what steps did you take to what -- initiate
21 construction --

22 MR. GOLDSTEIN: Correct.

23 JUDGE STEINBERG: -- at that time?

24 WITNESS: My first steps at that time, once I
25 learned that it had become a final order, was to begin trying

1 to decide how to format the station and that took up most of
2 the summer of '91, wrestling with that decision. It was kind
3 of an evolutionary process. Again, I looked at the, the
4 market, the stations that were there, the formats that were in
5 the market, where I felt there were format holes, and then
6 also I looked at the overall economy and I had been reading
7 and I, I read with much greater interest at that time the
8 economic reports that were not only in the, the general
9 newspapers and news magazines, but also the trade press and I
10 became acutely aware of the general depressed state of the
11 economy in the, in the radio industry as a whole, noting that
12 it also affected the Rocky Mountain states and the Rocky
13 Mountain region. This is a planning process that took some of
14 my time over several months deciding how to format the
15 station.

16 BY MR. GOLDSTEIN:

17 Q Now, did you go to Blackfoot at all at or about that
18 time in '91?

19 A No, I did not.

20 Q Had you ever gone to Blackfoot?

21 A Yes, I did.

22 Q And when did you do that?

23 A In 1987.

24 Q And what did you do when you went to Blackfoot in
25 1987?

1 A When I went to Blackfoot in 1987, I met with some of
2 the community leaders; I looked at possible housing with a
3 real estate agent; I looked at possible studio office space
4 with a real estate agent; I went to the top of my proposed, at
5 that time, transmitter site with the BLM; visited with the
6 BLM --

7 Q You want to state for the record what BLM is?

8 A I'm sorry. The Bureau of Land Management, which
9 manages the broadcast sites on top of the mountains. I'm
10 trying to remember what else I did. I listened to the various
11 radio stations that were up there and gen-- generally
12 acquainted myself with the community.

13 JUDGE STEINBERG: This was in '87?

14 WITNESS: Yes, sir.

15 JUDGE STEINBERG: After your designation?

16 WITNESS: Yes, sir.

17 JUDGE STEINBERG: And you just testified a few
18 moments ago that you realized that, that at the time that you
19 testified in December '87, that you realized it would -- that
20 the case would take a long time. That if you got the
21 construction permit, it would be a long time coming. This is
22 what Mr. Goldstein was talking about, Mass Media Bureau
23 Exhibit 2, pages 56 and 90, and you were talking about formats
24 and you testified that you realized at the time you testified
25 that it would be a long time before you got a construction

1 permit. Is that correct?

2 WITNESS: Yes, sir.

3 JUDGE STEINBERG: Okay. And the record will bear me
4 out. If he didn't testify to that, he didn't, but I think he
5 did. Now -- but you went to Blackfoot in 1987 and looked for
6 housing, you looked for studio space, you talked to the Bureau
7 of Land Management. Why did you all of that when you realized
8 that it might take a long time to get a construction permit?

9 WITNESS: Well, just to acquaint myself with the
10 area. I didn't look for housing and studio space to make a
11 commitment on housing and studio space, but just to determine
12 its general availability in the area and to acquaint myself
13 with the, with the community that I was going to live in.

14 JUDGE STEINBERG: Didn't you testify in the earlier
15 hearing in December that -- December '87 that the real estate
16 guy -- did he show you pictures of certain houses and you
17 talked about the relative merits of the houses? I'm
18 paraphrasing. I'm not saying word for word.

19 WITNESS: He took me to visit houses.

20 JUDGE STEINBERG: And this is in December '87 -- not
21 in December. Sometime in '87.

22 WITNESS: And he showed me potential office space.
23 And we talked about prices and so forth and how much it would
24 cost.

25 JUDGE STEINBERG: And why, why did you do that if,

1 if you realized it would take a real long time for you to --
2 real long time being -- again, I'm paraphrasing. These are my
3 words, not your words -- when you realized it would take a
4 long time to, to get a construction permit?

5 WITNESS: Because I was planning to go up there and
6 build a radio station and live and make that my home and I
7 wanted to become more familiar with the community.

8 JUDGE STEINBERG: And this was after your
9 integration proposal?

10 WITNESS: That's right. And what I found when I
11 went up there was that it reconfirmed my commitment that that
12 would be a fine place to live in.

13 BY MR. GOLDSTEIN:

14 Q Between 19 -- 1987 and 1991, did you do any -- did
15 you go to Blackfoot at all?

16 A No. I only went there that one time.

17 Q Now, once the Court of Appeals decision was
18 released, you, you said you contemplated the formats and you
19 looked at the economics. Did you do anything specific about
20 changing your residence to Blackfoot or moving to Blackfoot?
21 In Aug-- in 1991, when the Court of Appeals decision came out?

22 A No.

23 Q What steps did you do in addition to contemplating
24 the format and the market in terms of building and operating
25 this station?

1 A I'm sorry. Could you repeat the question?

2 Q What step -- after the Court of Appeals decision was
3 released, what -- in addition to con-- contemplating the
4 possible format of the station, what steps did you take
5 towards building and operating the actual facility?

6 JUDGE STEINBERG: Mr. -- uncompound it. Let's say
7 building.

8 BY MR. GOLDSTEIN:

9 Q Towards building station KCVI?

10 A I -- as, as I've testified in my, in my testimony, I
11 contacted the BLM, Bureau of Land Management, to get an
12 updated site management plan.

13 Q And can you explain what a site management plan is?

14 A Well, they -- the Bureau of Land Management manages
15 the transmitting site on, on which I was going to locate my
16 antenna. And they have certain rules and regulations as it
17 relates to that and I wanted to get whatever their latest
18 information was at that time, because the previous one they
19 had was from earlier. So I wanted to make sure -- what I was
20 doing is proceeding with my plans.

21 I, I thought that the, the, the bottleneck if you
22 will in, in building a radio station is the antenna site,
23 getting that nailed down. Also making a determination whether
24 I was going to side-mount the antenna or utilize a combiner
25 and broadcast both signals through the one antenna. Kent

1 Frandsen was my -- the person that had given me reasonable
2 assurance as to the availability of my transmitter site.

3 So I was preparing to contact him to follow up on
4 those details, but before I contacted him I wanted to talk to
5 the BLM, I wanted to get familiar with the site, I wanted to
6 see if perhaps there were possible other sites on that
7 mountaintop that I would want to consider if Mr. Frandsen was
8 going to be difficult to deal with. So I wanted to consider
9 what my options were there. So I did all that and then
10 ultimately contacted Mr. Frandsen to make those arrangements.

11 BY MR. GOLDSTEIN:

12 Q And how did you get in touch with Mr. Frandsen. How
13 -- who, who initiated the contact with him?

14 A I called him.

15 Q And how did his name come to your attention?

16 A Well, his name came to my attention because he, he
17 had the tower. He's the person that I was originally going to
18 put the antenna on his tower. All the way from back in
19 whenever that was, because I had a couple of different tower
20 sites and ultimately ended up on Mr. Frandsen's tower.

21 Q Did you engage in negotiations with him?

22 A I began to.

23 MR. RILEY: Your Honor, I've, I've no objection to
24 the question, but I -- Mr. Goldstein can determine this from
25 the witness, but I think it is true that there were two

1 periods of contact between the witness and Mr. Frandsen. One
2 earlier and one later and there were at least two different
3 types of negotiations. One over the transmitter site --

4 JUDGE STEINBERG: Okay, let's -- I don't -- okay. I
5 don't want --

6 MR. RILEY: No, I don't want to testify. I just --

7 JUDGE STEINBERG: No, I, I --

8 MR. RILEY: And I don't want to object to the
9 question either. I just --

10 JUDGE STEINBERG: And I don't, I don't like for the
11 witness to hear --

12 MR. GOLDSTEIN: Did you have a series of
13 negotiations?

14 JUDGE STEINBERG: Yeah, let -- I, I think what
15 you've said is enough to let Mr. Goldstein --

16 BY MR. GOLDSTEIN:

17 Q Did you have one, one series of negotiations with
18 Mr. Frandsen?

19 A We had an earlier discussion with Mr. Frandsen --

20 Q Well, when, when is earlier please?

21 A I don't remember the exact time. That would be a
22 matter of record when I had to move my transmitter site from
23 the previous one to the new one, which was East Butte. And at
24 that time either I or my attorneys had contacted Mr. Frandsen
25 to secure reasonable availability. I believe I did talk to

1 him at that time.

2 JUDGE STEINBERG: Okay. Let's -- put it in the
3 context of what was happening with the case. Was, was it
4 while the hearing was going on or was it after the idea was
5 issued? Was it after the Commission affirmed? Was it while
6 the case was in the Court of Appeals? This is the earlier --

7 WITNESS: Yes.

8 JUDGE STEINBERG: Put it in that broad context.

9 WITNESS: Well, Your Honor, if, if I may, it refers
10 to that at the very beginning of this transcript where it
11 talks about wanting to resolve an issue, a new transmitter
12 site and so forth. That's the new site is the Frandsen site.

13 JUDGE STEINBERG: Okay, so basi-- okay. So the --
14 basically the earlier conversations that, that you testified
15 about happened with Mr. Frandsen were before the ID -- before
16 the initial decision was issued by the judge?

17 WITNESS: Yes, sir.

18 JUDGE STEINBERG: Okay. That's all.

19 BY MR. GOLDSTEIN:

20 Q That was your first series of negotiations? Right?

21 A Right. And that's why I came back to Mr. Frandsen
22 later?

23 Q And the second series of negotiations was after you
24 had received the --

25 A After it became a final order and I had received the

1 construction permit.

2 Q Okay. Now, after the decision did you -- after the
3 Court of Appeals decision, did you do anything to secure
4 office space?

5 A Nothing further. I determined from my earlier visit
6 that office space, studio space, a place to live was not going
7 to be a problem. I want to say also that I'm, I'm single, I
8 don't have a family. Finding a place to live is, is not a
9 problem for me. I didn't view it to be a significant
10 difficulty. My first concern was nailing down the antenna
11 site, making sure that those arrangements were taken care of
12 and everything else would follow after that.

13 JUDGE STEINBERG: Let me ask -- the Court of Appeals
14 decision -- what did -- enlighten me. Was it, was it a formal
15 decision affirming the Commission or was it just an -- a
16 letter saying we, we dismiss the appeal. I -- that's the --
17 that piece of paper I don't know. I don't know a thing about.

18 MR. RILEY: I, I don't know, Your Honor, either. I
19 don't think it was a full, published decision, but I could be
20 wrong about that.

21 JUDGE STEINBERG: Okay.

22 MR. RILEY: I think it was either per curiam or a
23 letter.

24 JUDGE STEINBERG: Okay, because that -- I don't want
25 to call it a decision if it's not a decision. Let's, let's

1 for convenience call it a decision.

2 MR. RILEY: I, I will set out to determine that and
3 when we submit findings in this case, Your Honor, we will
4 appropriately describe it and cite to whatever remains --

5 JUDGE STEINBERG: Why don't you -- if you could, why
6 don't you circulate it beforehand.

7 MR. RILEY: Okay.

8 JUDGE STEINBERG: Maybe I'll make it an exhibit. If
9 you want me to. Do you want me to?

10 MR. RILEY: No, not especially.

11 JUDGE STEINBERG: Okay. But I'd like, you know, I
12 mean, if you're going to cite it --

13 MR. RILEY: Oh, I'd cite it only, only as you have
14 here, that is -- just a -- cite of how it is that the permit
15 came to be in --

16 JUDGE STEINBERG: Okay. Let's, let's, you know,
17 let's, for convenience, call it a decision. The Court of
18 Appeals decision came out in late February '91. Is that
19 correct? Well, you don't -- it's correct. And your testimony
20 is that -- when Mr. Goldstein said that the steps you took
21 toward building half of the Court of Appeals decision --
22 contacted BLM for an updated site management plan. According
23 to your testimony in this case -- and I'll -- it's page 16 of
24 Bott No. 3, you did that in January 1992.

25 WITNESS: Yes, sir.

1 JUDGE STEINBERG: Okay. Now, why did you wait from
2 late February '91 to January '92 to take this initial step?

3 WITNESS: Well, Your Honor, I did not have the
4 construction permit in hand I think until, until December
5 sometime. And I just had grown gun-shy from this whole
6 proceeding knowing that, that it's not a done deal until the,
7 the paperwork is done, but I had been assured that, that, that
8 it would be forthcoming from a notice from my attorney that,
9 that the proceeding was now resolved and it would be, it would
10 be mine.

11 JUDGE STEINBERG: Which attorney? I have a number
12 of attorneys.

13 WITNESS: This would have been Barry Friedman who
14 was my attorney at the -- on the case at that time.

15 JUDGE STEINBERG: Okay. And what -- and Mr.
16 Friedman assured you that what? What did he assure you?

17 WITNESS: As, as I recall the letter, the letter was
18 congratulations, the, the -- I can't remember the exact
19 wording of it, but the proceeding is, is, is finished. There
20 are no more appeals in the offing and the permit will be
21 issued and it will be yours.

22 JUDGE STEINBERG: Do you know about when he told you
23 that?

24 WITNESS: Yes, I think it was March.

25 JUDGE STEINBERG: Of '91?

1 WITNESS: Of '91.

2 JUDGE STEINBERG: Okay. Did -- the Commission
3 issued their order denying review of the Review Board decision
4 in April 1990. Okay? Try to put your mind -- your, your
5 state of mind back to April 1990. So basically in April 1990
6 and then there's what? There's a 50-day period for it being
7 final or a 30-day period, whatever. So figure May or June in
8 -- figure May or June 1990 the Commission decision or the --
9 you got the -- as far as you were concerned you got the -- the
10 construction permit was awarded to you by the Commission. Do
11 you understand what I'm saying?

12 WITNESS: Yes, sir.

13 MR. RILEY: But, Your Honor, I'm not sure I, I -- I
14 wouldn't object to a question Your Honor asked, but in fact
15 there had been an appeal taken.

16 JUDGE STEINBERG: Wait, wait, wait. I'm getting to
17 that. In -- well -- figure May or June 1990. Did you ask the
18 Commission in May or June 1990, or in that time frame, to
19 issue a construction permit to you?

20 WITNESS: I don't remember, Your Honor.

21 JUDGE STEINBERG: Okay. You, you just -- you, you'd
22 applied in 1985, almost five years later and you got -- and
23 you finally got a Commission decision which was final as far
24 as the Commission was concerned awarding you the construction
25 permit and was this a big event in your life? Hey, I won, I

1 | got this construction permit?

2 | WITNESS: Well, Your Honor, I think to answer your
3 | question, not, not totally a big event in my life, realizing
4 | that my -- that, that the opposing party still had other
5 | appeal options and I think for you to fully understand my
6 | mental frame of mind at that time, I think you need to know
7 | that, that the opposing party was my uncle, Norwood Patterson,
8 | the head of Radio Representatives, who's well-known in my
9 | family, who I know personally, and I had every reason to
10 | suspect that he would continue to, to pursue this beyond any
11 | reasonable degree. And so once that decision had been
12 | reached, knowing that he had yet another appeal option, I was
13 | fully confident that he would probably pursue that.

14 | JUDGE STEINBERG: Was he your mother's brother?

15 | WITNESS: He is my mother's brother. Yes, sir.

16 | JUDGE STEINBERG: And he's in broadcasting also.

17 | WITNESS: Yes, he is. He was not -- well, yes.

18 | JUDGE STEINBERG: So basically when you got the --
19 | when the Commission said, we're giving you the construction
20 | permit and it was final as far as the Commission was concerned
21 | in April, May, or June 1990, you didn't -- you don't remember
22 | asking the Commission to issue the permit to you?

23 | WITNESS: I, I don't remember.

24 | JUDGE STEINBERG: Okay.

25 | WITNESS: But I know my frame of mind would be, I'm

1 | sure Norwood will continue to pursue this as long as he
2 | possibly can.

3 | JUDGE STEINBERG: Okay. And, and through a court
4 | appeal.

5 | WITNESS: Right. And, and I don't remember exactly
6 | what the legal next step was, but I knew that he had some more
7 | options ahead of him.

8 | JUDGE STEINBERG: Okay. And he did, in fact -- or
9 | Radio, Radio Representatives, Inc., did, in fact, pursue the
10 | appeal.

11 | WITNESS: That's what I -- yes, I think he did.

12 | JUDGE STEINBERG: Okay. Then he -- then the Court
13 | of Appeals issued their decision in late February 1991 and --
14 | that's correct. Yeah, that's correct. That's just for
15 | background purposes. Did you at that time ask the Commission
16 | to issue you your construction permit?

17 | WITNESS: As I remember, Your Honor, there was a
18 | window within which Radio Representatives could file some kind
19 | of additional appeal and then when they did not file an
20 | additional appeal it indicated that they had stopped. And I
21 | think that is what the letter to my attorney was indicative of
22 | something --

23 | JUDGE STEINBERG: From your attorney.

24 | WITNESS: Yes, from my attorney, that, that -- so I
25 | suppose after that time we took whatever next step was

1 appropriate for us to get the construction permit.

2 JUDGE STEINBERG: Okay

3 WITNESS: I don't remember the exact --

4 JUDGE STEINBERG: Okay. You don't remember --

5 WITNESS: -- facts.

6 JUDGE STEINBERG: -- whether or not you asked the
7 Commission to issue a piece of paper that says construction
8 permit?

9 WITNESS: I honestly don't remember.

10 JUDGE STEINBERG: This -- is that anywhere? Is
11 there a letter or anything from Mr. Bott anywhere in the
12 bowels of the Commission's files requesting the Commission to
13 issue a construction permit?

14 MR. RILEY: Your Honor, I, I want to refer to a
15 record matter before I simply made an ad hoc comment here, but
16 there is a, a court decision, a delay in issuing the permit,
17 not uncommon in Commission matters, that resulted from the
18 need for submission of a radio hazard, non-ionizing -- non-
19 ionizing radiation study, which Mr. Bott had to submit -- or
20 had to be submitted on his behalf, which was sometime during
21 '91, after the Court of Appeals decision.

22 You know, I, I, I think we all know. I think I'm
23 right in describing it this way, but Mr. Goldstein and Ms.
24 Laden would tell me that even after the Court decision, there
25 is a final pending check on the processing lines before the

1 permit certificate is issued and it was in the course of that
2 that the radiation hazard study was determined to be
3 necessary.

4 JUDGE STEINBERG: Could you -- could you put those
5 dates -- I mean, basically put in the record -- this is
6 something that you all can stipulate to because what the heck
7 happened? Did, did Mr. Bott or on his behalf have a letter on
8 his behalf written to the Commission saying issue the
9 construction permit or did the Commission say -- write to Mr.
10 Bott and say we need this additional study and then Mr. Bott
11 submitted the study -- in other words, those dates could be
12 imprecise -- what happened between February -- I'm, I'm -- I'll be
13 candid with you. I'm not here to fool you. I'm here to get,
14 get facts into the record.

15 It seems to me an awful long time between February
16 22nd, 1991, when the court acted and December 18th, 1991, when
17 the CP was issued. And what I wanted to know is what happened
18 during that interval. Why was the CP -- why did it take 10
19 months to issue the CP and if there were further engineering
20 -- now, Mr. Riley's laughing and, and probably the answer's
21 going to be, that's what happens. It's -- there's this great
22 delay, but see I don't have firsthand experience about that.
23 What seems like an awfully long time to me might -- and Mr.
24 Oxenford chuckled too -- might seem to be to you people who
25 have firsthand knowledge of this, seem to be well that's

1 pretty expeditious --

2 MR. RILEY: No.

3 JUDGE STEINBERG: -- as far it's only 10 months.

4 MR. RILEY: I, I have always believed it's
5 egregious, but it is not Mr. Bott who issues himself the
6 permit.

7 JUDGE STEINBERG: Oh, I know.

8 MR. RILEY: It is the Federal Communications
9 Commission that does it.

10 JUDGE STEINBERG: I know, but let, you know, let's
11 put into the record what happened in between those two dates.
12 And at least, at least do it through stipulation, because if
13 something -- well, I'm not going to say anymore. Yeah. Maybe
14 if you guys have statistics on average, you know, the average
15 time it took between, you know, between something becoming
16 final and the issuance of a CP in 1991, maybe you'll find --
17 you know, maybe this isn't unusual. I don't, I don't know of
18 any such statistic as this. Okay. Let me -- I'm sorry, Mr.
19 Goldstein. I seem to be too interruptive, if that's a word.

20 BY MR. GOLDSTEIN:

21 Q About the time -- did there come a time when you
22 received the call letters from the Federal Communications
23 Commission?

24 A Yes.

25 Q And when was that?

1 A I don't remember exactly. It was, it was, I think,
2 in early January of '92 I think.

3 Q All right. At about that time did you also speak to
4 a user's group?

5 A Yes, I think I spoke to the --

6 Q Can you explain to us what the user's group was?

7 A -- president of the user's group. I can't recall
8 his name at this point, but that was at that time that I was,
9 I was trying to understand what other possibilities there may
10 be up on top of that mountain before I talked to Mr. Frandsen,
11 user's group, or the various other users up there. And I --
12 BLM I understood that there was a user's group and so I talked
13 to the president of the user's group, because he was more
14 familiar with the other antenna and tower sites up there,
15 which ones were full, which ones might have additional
16 capacity for me to consider and those types of, those types of
17 considerations.

18 Q And did you also have consultation you -- with the
19 -- an engineer and an equipment supplier?

20 A Yes, I did.

21 Q What were the nature of those consultations?

22 A Around those same time my, my question was which
23 would be more advantageous to side-mount the antenna or use a
24 combiner to combine Mr. Frandsen's, if I were to locate which
25 was my initial plan and continued to be my plan, to locate on

1 Mr. Frandsen's tower if I would utilize a combiner and a
2 bigger antenna to put both signals out through one antenna,
3 whether it would be best to do it engineering-wise that way or
4 to side-mount another antenna on his tower.

5 I'd not had any experience with a combiner before
6 and that was a new concept to me and so I talked to my
7 engineer and I talked to an equipment supplier to determine
8 technically if that's a better way to go and cost-wise what
9 kind of equipment is involved and how much would it cost. So
10 yes, I talked to my consulting engineer about those matters as
11 well as my equipment supplier.

12 Q Now, at this point in time had you decided on a
13 format? We're talking January/February 1992?

14 A Yes, I had.

15 Q And what was the format you had decided on?

16 A The format that I had decided on, which goes back to
17 the summer of, of '91, I had decided on a commercial religious
18 format because of the terrible state of the economy at that
19 time. I felt that other formats that were under consideration
20 by me, a satellite music network, Unistar, CNN format,
21 whatever, all relied heavily on spot advertising. My
22 experience with commercial religious broadcasting, I felt that
23 that was a much safer format, even though it wouldn't have
24 probably the upside potential. I felt it didn't have the
25 downside potential which was a big consideration to me in that

1 economic environment. So at that time I had decided on a
2 commercial religious format.

3 Q And could you put this in a -- more specifically in
4 a calendar frame?

5 A In the summer of '91.

6 Q Did you have any discussions with anyone about once
7 you had determined the nature of your format?

8 A That would have been something I would have kept to
9 myself as far as contacting possible program sources and so
10 forth until I got closer to actually putting the station on
11 the air. I'm sure I may have discussed it to those close to
12 me, family members and so forth, but I would not have talked
13 to anybody in the industry about it until I was ready to put
14 the station on the air and develop a sales strategy and gone
15 about that.

16 Q Did there come a time when you, did there come a
17 time when you decided to spell -- to sell station KCVI?

18 A Yes.

19 Q And how did your decision to sell come about?

20 A It was in the course of my conversations then with
21 Mr. Frandsen, as I was discussing with him, working out the
22 arrangements to install my antenna on his tower, actually --
23 and, and discussing with him if he would be open to the idea
24 of utilizing a combiner, which he was open to that idea,
25 putting my transmitter in his building and making those